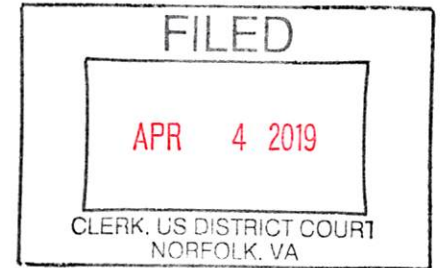


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION



DAVID M. THOMPSON,
Plaintiff.

Case No. 4:19cv 33

v.

U.S. JUSTICE DEPARTMENT,
Defendant.

COMPLAINT

NOW COMES Plaintiff and hereby asserts the following:

1. This is an action concerning the Freedom of Information Act ("FOIA").
2. Plaintiff is an individual, who resides in Williamsburg, Virginia.
3. Defendant is an agency of the federal government.
4. Jurisdiction is proper under 5 U.S.C. Sec. 552 & 28 U.S.C. Secs. 1331, 1361, & 2201.
5. Venue is proper under 28 U.S.C. Sec. 1391 & LR 3.
6. On January 16, 2017, Plaintiff formally filed a written FOIA administrative appeal with Defendant's Office of Information Policy ("OIP") concerning the withholding and/or redaction of documents.
7. On December 20, 2017, Plaintiff formally filed another written FOIA administrative appeal with Defendant's OIP concerning the withholding and/or redaction of different documents.
8. On October 31, 2018, on December 15, 2018, and again on February 19, 2019, Plaintiff sent Defendant's OIP letters, in which Plaintiff noted that he had received no response to either of the two administrative appeals (paragraphs 6. & 7. above) and re-requested consideration of those two administrative appeals.
9. Plaintiff has received no response from Defendant's OIP to either of the two administrative appeals of January 16, 2017 and December 20, 2017 or to any of the three letters

to Defendant's OIP concerning those two administrative appeals (paragraphs 6.-8. above).

10. On May 1, 2018, Plaintiff formally filed a written FOIA request with Defendant's Office of Public Affairs ("OPA") for the production of documents.

11. On October 31, 2018, on December 15, 2018, and again on February 19, 2019, Plaintiff sent Defendant's OPA (and/or OIP) letters, in which Plaintiff noted that he had received no response to the prior FOIA request to Defendant's OPA (paragraph 10. above) and re-requested a response.

12. Plaintiff has received no response either to the FOIA request to Defendant's OPA or to any of the three letters to Defendant's OPA (and/or OIP) (paragraphs 10. & 11. above).

13. On October 31, 2018, Plaintiff formally filed a written FOIA request with Defendant's Justice Management Division ("JMD") for the production of documents.

14. On December 15, 2018, Plaintiff sent Defendant's JMD a letter, in which Plaintiff noted that he had received no response to the prior FOIA request to Defendant's JMD (paragraph 13. above) and re-requested a response.

15. On October 31, 2018, Plaintiff formally filed a written FOIA request with Defendant's Environment & Natural Resources Division ("ENRD") for the production of documents. Plaintiff received a February 6, 2019 response, which referred nine items for response from JMD and which also withheld ten documents and redacted another 38 pages of documents.

16. Plaintiff has received no response from JMD to the October 31, 2018 FOIA request (paragraph 13. above), to the December 15, 2018 letter ((paragraph 14. above), or to the February 6, 2019 referral (part of paragraph 15. above).

17. On February 19, 2019, Plaintiff formally filed a written FOIA administrative appeal with Defendant's OIP concerning ENRD's February 6, 2019 withholdings and redactions (part of paragraph 15. above).

18. Plaintiff has received no response from Defendant's OIP to the February 19, 2019 administrative appeal (paragraph 17. above).

19. According to Defendant's own data, Defendant has an established history of non-compliance with FOIA's timeliness requirement.

Count I

20. Paragraphs 1.-19. above hereby are adopted by reference.

21. Defendant's recalcitrance noted in paragraphs 10.-14., 16., & 19. above is in violation of 5 U.S.C. Secs. 552(a)(3)(A) & (a)(6)(A)(i).

Count II

22. Paragraphs 1.-21. above hereby are adopted by reference.

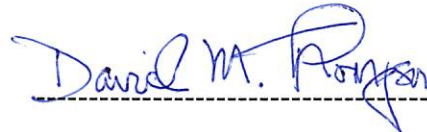
23. Defendant's recalcitrance noted in paragraphs 6.-9. & 17.-18. above is in violation of 5 U.S.C. Secs. 552(a)(3)(A) & (a)(6)(A)(ii).

REQUESTED RELIEF

Plaintiff prays that this Court:

- A. enjoin Defendant from the withholding or redaction of any and all records requested by Plaintiff through FOIA as noted herein and order Defendant to produce to Plaintiff any and all of such records, free of denial, deletion, withholding, or redaction;
- B. declare that Defendant has violated FOIA's timeliness requirements under 5 U.S.C. Secs. 552(a)(3)(A), (a)(6)(A)(i), & (a)(6)(A)(ii) as to Plaintiff as noted herein;
- C. enjoin and order Defendant to respond and comply in the future with FOIA's timeliness requirements under 5 U.S.C. Secs. 552 (a)(3)(A), (a)(6)(A)(i), & (a)(6)(A)(ii) as to Plaintiff; and
- D. grant to Plaintiff such further and other relief as equity and justice require.

Dated: April 4, 2019



David M. Thompson, Plaintiff

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